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# VIRGINIA LAW REGISTER.

JNO. GARLAND POLLARD, EDITOR, Richmond, Va.

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In presenting in this issue the likeness of Mr. George Bryan, retiring editor of the REGISTER, we hasten to disclaim that the act was committed with any ornamental intent. Oh! no, the present editors of the REGISTER are men of taste, and know the beautiful when they see it. His picture is here presented in order that the members of the Bar may look upon the care-worn features of the man who has served them so faithfully. Mr. Bryan was no miser in the use of his time and talent in making the REGISTER of practical value to the practitioner. Amid the cares of a large and growing practice, he held himself "a debtor to his profession." The debt he had paid in full measure, pressed down and running over, for, with a keen sense of what is really valuable to the busy lawyer, he gathered the same and presented it to his readers in the most attractive form. The REGISTER wishes him health and happiness and a long drawn out continuance of the success which he has already attained at the Bar.

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We wish to record our unqualified approval of the decision of the Court of Appeals of Texas in its late opinion in *Chambliss v. State*, 79 S. W., 577. It had long been settled that the man who kissed a girl without her consent was guilty of assault. This severe ruling led to many hardships, no man being safe thereunder; for, as all students of feminine nature know, a girl never gives her consent, no matter how willing, and her resistance, no matter how strenuous, is rarely *bona fide*. Now the learned court, in a most able opinion, draws a very important distinction, which should have been recognized and applied long ago—to-wit: That kissing constitutes no assault where the man reasonably believes

under the circumstances that the girl would allow him to kiss her. The opinion is plainly right, and in perfect accord with the common sense and experience of *mankind*. Surely no one can be blamed for doing what any "man of ordinary prudence would do under like circumstances," and what no man would fail to do unless dead. But *contra* is the opinion of his Honor, Justice Crutchfield, of Richmond, who recently fined a man \$25 and sent him to jail for thirty days for this same offense. We, therefore, sound the warning that the Texas opinion will probably not be followed within the corporate limits of the city of Richmond or within one mile thereof. For act giving the exact confines of Justice Crutchfield's jurisdiction, see Acts 1870-'1, p. 326.

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In the great mass of legislation passed by the recent General Assemblies, it is not surprising that many errors should have crept into the Acts. Section 122 h. (Acts 1902-'3-'4, p. 930), prescribing how ballots shall be marked, reads: "He (the  
**Some Strange** voter) shall then draw a line with a pen or pencil  
**Mistakes in** through the names of the candidates he does not  
**Recent Acts.** wish to vote for, leaving the title of the office and the name or names of the candidates he does *not* wish to vote for unscratched. Another Act (1902-'3-'4, p. 60) makes it the duty of the Commissioner of Revenue to list dogs for taxation, and then proceeds to prescribe what shall be done if the Commissioner "fail to omit to list a dog."

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To the Virginia lawyer, a thoroughly scientific index to the Constitution and general statutes, is the need of the hour. The work of indexing law books has become a profession in itself, and all of the large publishing houses have men who devote  
**Index to the** their time to such work. The forthcoming Anno-  
**New Code.** tated Code will be indexed by Mr. A. C. Wandrie, of the West Publishing Co., who is, perhaps, the greatest expert in indexing in this country. He has devoted many years of his life to this work, and the indexes to the Compiled Statutes of the United States and Supplement thereto and to the General Statutes of Minnesota are samples of his work. The index is now being made, and the New Code is expected to appear during the month of August.

"Law Notes" for June contains an article in which are collected some interesting statistics gathered from the perusal of recent State reports. It is there shown that in eight **Dissenting Opinions**; States the last volume of reports disclosed **Affirmances.** that there was not a single dissent in the decision of any case. In Virginia the dissenting opinions were only 3%, while in New Jersey the percentage of dissent was 27%. In the matter of affirmances, Massachusetts leads the list with 87%, while of all the States, Texas shows the lowest percentage—to-wit, 34%. In Virginia 41% of the cases appealed are reversed.

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We are glad to announce that, through the courtesy of the State Corporation Commission, we will soon be able to present to our readers the rulings of the Commission on many **Opinions of** important questions which have arisen under the **Corporation** new Corporation Acts. The Commission has conducted a voluminous correspondence in answer to **Commission.** many pertinent questions raised as to the construction of these acts, and its opinions as to the same will be of great value to the Bar. At this time we could not serve our readers better than to report fully and carefully the questions passed upon by the Commission, whether formally or informally, in response to the many enquiries as to the operation of this new department of government and the laws relating to the same.

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The sixteenth annual meeting of the Virginia Bar Association will be held at Hot Springs, Va., August 2, 3, and 4. President Alexander Hamilton will preside, and the annual address will be delivered by Judge Francis E. Baker, of Indiana, **Bar Association** judge of the 7th U. S. Circuit Court of Appeals. **Meeting.** Judge Baker is one of the youngest men on the Federal Bench. His career has been one of remarkable success; at the age of thirty-eight he was made judge of the Supreme Court of Indiana, and at the age of forty-one was appointed to his present position. Among the other speakers will be Henry W. Anderson, of Richmond; W. B. Richards, of Front Royal, and R. G. Bickford, of Newport News. Mr. Richard's subject will be "The Genesis of the Federal Judiciary System," and

Mr. Bickford will speak upon "The American Marine, Legislation as a Factor in its Development"; Mr. Anderson, on 'The Allowance of Counsel Fees out of Funds in Court.'

The Virginia Bar Association has done much to maintain a high standard among the members of the Bar, and the social features of its meetings have been most pleasant. The Association is one of the most prosperous and largely attended in America, and its success is largely due to the untiring efforts of its secretary, Mr. Eugene C. Massie, of Richmond.

The Chesapeake & Ohio R. R. Co. has granted to the members of the Association a one-fare rate, and the other railroads will give reduced fare. Tickets will be on sale July 30th to August 3d, inclusive, good for return to August 15th. The rate at the Homestead Hotel will be \$3.00 per day; at the Alphin, \$2.50.

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We print this month a number of decisions rendered by trial courts. Many important questions, which never reach the Court of Appeals, are thoroughly and exhaustively argued **Opinions of** before our trial judges, and receive their most careful **Trial Courts.** consideration. Such opinions, especially where the reasons upon which they are founded are given and where authorities followed are cited, are often of great value. Both the Bench and the Bar are invited to report such cases for the REGISTER.

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We publish in this issue two very interesting communications—one from Mr. R. W. Winborne, of Buena Vista, **Correspondence.** and the other from Mr. A. W. Patterson, of Richmond. We hope other members of the Bar will give our readers the benefit of their study of the "knotty problems" of the law.



GEORGE BRYAN  
FORMER EDITOR OF THE VIRGINIA LAW REGISTER